

Approved as Written: 3/20/02

**CITY OF MORGAN HILL
SPECIAL AND REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - MARCH 6, 2002**

CALL TO ORDER

Mayor Pro Tempore Carr called the meeting to order at 5:36 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, Council/Agency Member Tate (available via teleconference call for workshop item 1 only. Location: 6825 East 4th Street, Scottsdale, Arizona)

Late: Mayor/Chairman Kennedy and Council/Agency Member Chang both arriving at 5:40 p.m.

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

Redevelopment Agency Action

STUDY SESSION:

1. REDEVELOPMENT AGENCY (RDA) ALLOCATION WORKSHOP

Executive Director Tewes presented the staff report. He explained that staff has identified additional funding sources. He said that the library impact fees would continue to be collected beyond the completion of library construction, and the Santa Clara County has approved a program to provide additional funding through continued set-aside funds that would have been paid on leases that are due to expire. These funds are to be used for the construction of libraries in County cities. This allows the reduction of RDA funds that the City has to commit to the Library from \$7 million to \$5.5 million because the money can be made up from these two revenue streams.

Mr. Tewes reviewed the RDA workshop packet, and the various options presented by staff, with the final Recommended Options being listed on Page 19.

Agency Member Sellers stated that these recommended amounts are close to what he had in mind. He suggested that additional funds be shifted into the Housing category to provide support for the teacher housing program.

Agency Member Chang stated that she would like to see some changes to the Economic Development allotment to specify that some funds are earmarked for medical services.

There was discussion about whether this was appropriate usage of RDA funds, since they are designated to be used for prevention/improvement in areas of blight.

Agency Member Chang stated that she felt medical services would be good for economic development, and therefore, were appropriate for RDA funding. She was not asking that funds be specified for this use, but simply be included in the list of projects.

Mr. Tewes was asked to explain the differences on Page 19 between the Option EZ and the Recommended Option. He reviewed each and explained the rationale behind each decision for recommended funding. The Sports and Aquatics Complex was increased to \$22.7 million to make it a more viable development of sports fields. The Indoor Recreation Center recommendation of \$26.2 million provides for an expanded City model, which has more expectation of meeting the needs of the community. The previous figure of \$18.5 million would not meet the objectives of the City, and would require cutting some things from the Indoor Recreation Center.

Sewer/Water has been reduced from \$8.6 million to zero dollars. He stated that the RDA is currently financing about 10.3% of sewer projects, and that those costs can be shifted to rate payers and impact fees, or bond funding for major projects. This allows the reduction to zero dollars in the Recommended Option, freeing these funds for other RDA projects.

Agency Member Sellers asked why a \$1 million allocation is being recommended for the soccer complex?

Mr. Tewes stated that this is currently appropriated in the five-year Capital Improvement Plan, approved by the City Council. This was recognized as an item that was important to the community, so a lump sum of monies was being reserved for the soccer complex to support it, but that no specific project was identified. He continued his explanation of page 19, by stating that the next item, Flood Control, was increased to \$7.1 million to provide enough funding to cover two of the three categories of flood control. There will be other public funds available from the Water District to handle other flood control projects. He stated that the Street Improvements category was increased by \$1 million to cover costs for the Monterey Overlay from Dunne Avenue to the south city limits. The last recommended change is to designate an additional \$600,000 to Economic Development. In response to questions from the Agency Members regarding staff recommendations on Library funding, Mr. Tewes stated that his recommendations are based on an income stream of 10- years to coincide with the life of the Redevelopment Agency. At the end of the 10 years, the continuing income would most likely be required for maintenance and repairs to the Library. Agency Member Tate concurred with this recommendation.

Agency Member Carr asked if there was assurance that the Indoor Recreation Center would be able to recover all of its operating costs with the enlarged size of the Center?

Mr. Tewes stated that the Center is still not at full cost recovery, and that it would take a larger capital investment to reach full cost recovery for this project. Recreation Manager Spier stated that this recommendation focused on local community needs, and would build a Center with approximately 93% cost recovery. It was reported that the Parks and Recreation Commission felt that this recommended expenditure was the right balance between community needs and cost recovery.

Agency Member Sellers stated that this is more than reasonable, and that this would provide what the community needs. He felt that the City should not expend funds to meet regional needs, which would be necessary to reach 100% cost recovery.

Chairman Kennedy stated that the proposed dollar amount is not in line with any of the models that the Council/Agency previously reviewed.

Mr. Tewes stated that the proposed amount brings it into line with one of the models, but as an expanded version. The Council/Agency has not seen this proposed model, but these recommended figures are the result of staff evaluation.

Agency Member Carr asked about the possibility of an impact fee for the Indoor Recreation Center.

Mr. Tewes stated that staff is working on an update of impact fees, and will be reporting to the Council in the next month or so. He indicated that the City does not currently have an impact fee in place for the community center, but if one were to be established, it would help finance this project. This will be a policy decision that affects the overall cost of development.

Agency Member Carr asked if the reduction of Sewer/Water to zero dollars would delay any projects?

Mr. Tewes stated that there are no projects due to start in the next five years, so this will create no problems with delays to projects.

Agency Member Carr asked about increases to rate payers if bond funding is used for future projects.

Mr. Tewes stated that there are no rate increases proposed at this time, and if bond costs are spread over many years, this would mitigate the cost to rate payers.

Agency Member Carr asked if administrative costs could be reduced by increasing efficiency?

Mr. Tewes stated that the administrative costs are buried in the project costs. He said that staff already plans to make a concerted effort to be more efficient. Also, some of these costs can come from the general fund.

Vice-chairwoman Chang asked if there were any contingencies built in for over spending, and Mr. Tewes responded that there are no funds identified as such. These recommendations identify only the RDA funds involved.

Vice-chairwoman Chang requested the establishment of a fund, other than RDA, to cultivate future Economic Development. She suggested that perhaps these funds could be obtained from current business development, and can go toward stimulation of future economic development.

Agency Member Carr stated that he feels the City already funds this through the money given to the Chamber of Commerce for use in economic development.

Vice-chairwoman Chang stated that she was referring to projects that could be done, not just things done by organizations for economic development.

Mr. Tewes stated that some communities do that, but they will have some restrictions. He said that the general fund is the most flexible funding the Council has, but it cannot be used to fund private projects. RDA funds have more flexibility to fund private projects for economic development.

Agency Member Sellers stated that the Agency needs to consider that the purpose of RDA funds is to eliminate blight. He stated that staff has done a good job of focusing on those areas for spending recommendations. He is comfortable with the sewer/water being reduced to zero dollars because he feels that these items should be handled by fees and not by RDA funds as they do not directly eliminate blight. Flood Control, however, does apply because it frees up dollars for lower income families who might have to pay for flood insurance, and that these dollars can then go into the local economy. He suggested putting \$600,000 into the area of housing to raise the City a little above the 20% allocation. He stated that he is not comfortable with medical services being identified as part of Economic Development at this time, but wants to wait until the City receives the report on medical services expected this summer. He said that medical services were not part of the original proposal brought before the voters, and that the City needs to stick with the original approved RDA proposal. He also expressed a concern that using RDA funds for medical services might open these funds to other uses that are not appropriate.

Action: *Agency Member Sellers made a motion, seconded by Agency Member Chang, to **adopt** staff's recommendation, with the exception that \$600,000 dollars be moved from Economic Development to Housing.*

Vice-chairwoman Chang requested the addition of verbiage to allow medical services to come under

the category of Economic Development.

Council Member Sellers stated that he was not comfortable with that because that goal can be reached without including medical services under RDA. Medical services can be included in a laundry list, but feels that the Agency is on thin ice if it tries to change the RDA ballot item. He felt that the Agency would be on firmer grounds if the verbiage was not included.

Chairman Kennedy stated that it is unknown what the Committee studying medical services will be recommending in their report, but felt that if medical services were included, it would keep more options open on whether or not to use RDA funds.

Agency Member Tate questioned the amount of funds being designated for recreation uses. If the recommendation would buy what the staff stated it would buy, then he felt it was a good option. He accepted the recommendation to reduce sewer and water to zero dollars. He questioned whether flood control needed to be increased, as recommended. He felt that Economic Development is where some reserves need to be held for things that might come along in the future. He felt that this was an area that was under funded. He questioned the need to allocate so much to flood control. He stated that he would rather see extra monies placed in Housing versus Economic Development. He supported staff recommendations, but questioned the amount being placed into Recreation uses.

Mr. Tewes addressed Agency Member Tate's concerns and explained again the reasoning behind the recommendations that staff provided.

Agency Member Carr requested that Agency Member Sellers amend his motion. He stated that he did not agree with the zero dollar allotment to Sewer/Water, but needed to find an area where dollars can be saved. He recommended that no funds be allocated for Sewer/Water; add \$1 million to Housing so that the City can be more active in this area; add \$1 million to Economic Development; add \$1 million to Street Improvements; add \$2.1 million to Flood Control; leave Regional Soccer Complex at \$1 million (this is an area to think about for contingency and set asides); add \$2.2 million to the Indoor Recreation Center, and leave the Sports and Aquatics Complex at \$20 million instead of raising the amount to \$22.7 million (should the City not be able to generate other resources this could save funds for the regional soccer complex). There also might be duplication of facilities that are being built in our schools. This recommendation could save the City \$1.3 million that could be left as a set aside or contingency fund for additional project costs, or possibly medical services, but not to be earmarked for anything specific.

Agency Member Sellers agreed that this appears to accomplish what he wants in Economic Development. He stated that he would support Agency Member Carr's recommended amendments as part of his motion.

Vice-chairwoman Chang stated that allotting \$20 million to the Sports and Aquatics Complex leaves

only \$2.7 million for the sports fields.

Agency Member Carr stated that he would agree to retain these dollars so that the City can continue the conversation on this issue, but that he was not sure that it was necessary to do so.

Vice-chairwoman Chang stated that if the Agency wants to increase Economic Development, why not put the money there?

Agency Member Carr stated that the \$1.3 million should be a separate line item identified as a contingency fund.

Agency Member Sellers restated that he wanted to consider separately the issue of medical services.

Agency Member Chang agreed not to earmark funds for medical services at this time, but asked that it be considered at a later time, if needed.

Agency Member Carr stated that there are additional dollars that are not allocated at this point that would be discussed later, as the need arises, which could be considered out of the \$1.3 million. He also asked Agency Members to keep in mind that the \$1 million for the Regional Soccer Complex could also be added to the contingency.

Agency Member Chang stated that there is also the \$2.7 million from the sports fields that could go into the contingency fund, which would give the City a \$5 million contingency fund.

Agency Member Carr stated that he is hesitant to do that at this time because he is not certain what will be going on with the soccer association. This issue is open for future discussion, so he did not want to reduce below \$20 million at this time.

Action: *Agency Member Chang withdrew her second to Agency Member Sellers motion.*

Action: *Agency Member Sellers made a motion, seconded by Agency Member Carr, to amend the motion to incorporate Agency Member Carr's recommended allocation.*

Agency Member Tate asked why the Agency is not allocating staff's recommendation to make it viable such as in the area of housing? He wanted to tie the increase to leverage on housing and needed to define what that means. Also, there is a need to identify items on the Housing Work Plan that do not have leverage and work on items that would create leverage. He stated that \$0.4 million increase is not enough in the area of Economic Development.

Actions: *On a motion by Agency Member Sellers, seconded by Agency Member Carr, the Agency Commission voted (4-1, Agency Member Tate voting no) Reviewed the Six*

*Options and **Determined** the Allocation of \$147 Million of the Net Tax Increment Available to the Redevelopment Agency Over the Next Ten Years or So as follows: Community and Cultural Center \$9.9 million; Library \$5.5 million; Sports & Aquatics Complex \$20 million; Indoor Recreation Center \$26.2 million; Regional Soccer Complex \$1.0 million; Sewer/Water \$0.0; Flood Control \$7.1 million; Street Improvements \$16.0 million; Economic Development \$16.0 million; Housing \$32.0 million; Administration \$12.0 million; and Contingency Fund \$1.3 million.*

Actions: *On a motion by Agency Member Sellers, and seconded by Agency Member Carr, the Agency Commission voted unanimously (5-0) to **Direct** Staff to Prepare the Five Year Capital Improvement Program (CIP) to Implement the Adopted Allocations.*

Actions: *On a motion by Agency Member Sellers, and seconded by Agency Member Carr, the Agency Commission voted unanimously (5-0) to **Direct** Staff to Prepare a Short Term Borrowing Strategy to Allow the Projects to Proceed as Quickly as Possible.*

Chairman Kennedy adjourned the Redevelopment Agency Workshop at 7:05 p.m.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Action: *By consensus, the City Council/Redevelopment Agency **deferred** the closed session items to the conclusion of the regular agenda items.*

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 4

2.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31 -007 & 008; 25 .50 acres located on the southwesterly side of Cochran Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: USDC Northern California No. C01-20857 RMW

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Name of Case: City of Morgan Hill v. Panwala
Court: Santa Clara County Superior Court
Case Number: CV94195

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Case Name: Drivers' Placement v. City of Morgan Hill
Case Number/Court: Santa Clara Superior Court Case No. CV788941
Attendees: City Manager, City Attorney, Special Counsel Dan Siegel, Public Works Director

5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: Del Priore et al. v. City of Morgan Hill et al.
Case Number: Northern District, United States District Court, C 01-20436

6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: Fuhs v. City of Morgan Hill et al.
Case Number: Santa Clara County Superior Court, CV 799784

7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Name of Case: Hacienda Valley Mobile Estates v. City of Morgan Hill et al.
Case No: C 01-20976 PVT, United States District Court, Northern District of California
Attendees: City Council, City Manager, City Attorney

8.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Name of Cases (3): Santa Teresa Citizen Action Group et al. v. Environmental Appeals Board of the United States EPA; Santa Teresa Citizens Action Group et al. v. California Energy Commission; Santa Teresa Citizens Action Group et al. v. California Energy Commission;
Case No/Court (3): Ninth Circuit Court of Appeals, No. 01-71611; Sacramento County Superior Court Civil No. 01 CS 01830; California Supreme Court Case No. S 103019
Attendees: City Manager, City Attorney

RECONVENE

Mayor/Chairman Kennedy reconvened the Regular City Council and Special Redevelopment Agency meeting at 7:15 p.m. Council Member/Agency Member Tate was absent.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Carl Guardino led the Pledge of Allegiance.

INTRODUCTION

Director of Public Works Ashcraft introduced recently hired Emi Totschinger, Assistant Engineer.

PRESENTATION

Mr. Carl Guardino, President and CEO of Silicon Valley Manufacturing Group, indicated that the City of Morgan Hill took the leadership and vision for being one of the first cities to believe in the collective public-private partnership created through the Housing Trust of Santa Clara County. He stated that for a city of Morgan Hill's size, Morgan Hill has provided the largest contribution from any city to the Housing Trust. Morgan Hill is also the first city to give a second investment into the Trust. The original vision was to raise \$20 million without raising new taxes or fees and this money leveraged \$200 million to assist thousands of families in three equally divided categories: first time home buyers, affordable rental homes, and homeless shelters/ assistance.

Pancho Guevara, Interim Executive Director of the Santa Clara County Housing Trust, reported that a little more than six months ago, the Housing Trust completed its initial capitalization of over \$20 million raised over 24-months from a unique collaborative of public and private sector investors. He reported that it has been more than seven months since launching the Trust and reported how the City's investment has played out during this period of time. He stated that as of today, \$3.2 million has been invested, leveraging over \$190 million in development that would create over 800 units for low income and extremely low income families. He stated that the City of Morgan Hill's investment of \$200,000 into the Trust has been joined by other contributions in the County of Santa Clara and every city in Santa Clara County, following the City's lead which has also leveraged additional dollars from the private sector. He indicated that the Housing Trust has supported development in seven cities from Palo Alto to Morgan Hill and is entering into the second phase of funding.

Mayor Kennedy thanked the Housing Trust for its efforts and stated that the City of Morgan Hill is pleased to be a part of the Housing Trust Fund and the goal of providing much needed affordable housing. He encouraged the Housing Trust to continue their excellent work that is being done at the Silicon Manufacturing Group and the Housing Trust Fund.

CITY COUNCIL REPORT

Mayor Pro Tempore Carr reported that he attended a recent meeting of the Interregional Partnership, a group of local elected officials from Santa Clara, San Benito, Monterey and Santa Cruz Counties that are meeting to talk about how the different growth potentials within cities affect each other. He

said that state funding has been received and that counties are working together to try and put together an interregional agreement among the four counties to talk about transportation, land use and growth issues. He indicated that the City of Morgan Hill will be hosting the next meeting of this group in May. He reported that he also serves on the County's Housing and Community Development Committee, indicating that Morgan Hill will be competing for housing dollars through the program for CDBG and other types of funding. It was his belief that the City would be likely to receive significant funding for these projects, including a project that has received funding from the Housing Trust. He stated that the Housing Element Update Committee will be reconvening this month, and that he hopes to finalize their work quickly and bring it back to the Council for approval.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

CITY MANAGER'S REPORT

City Manager Tewes indicated that he did not have a City Manager's Report to present this evening.

CITY ATTORNEY'S REPORT

City Attorney Leichter stated that she did not have a City Attorney's report to present this evening.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Tate absent, **Approved** consent calendar items 2-7 as follows:*

2. **RE-APPROPRIATION OF MATCHING FUNDS FOR INSTALLATION OF BICYCLE RACKS**

Actions: ***Re-Appropriated** Matching Funds of \$7,158 from the City's Fiscal Year 2000/2001 Unappropriated Street Fund Balance for the Installation of 25 New Bicycle Racks.*

3. **FINAL MAP APPROVAL FOR STERLING ESTATES (TRACT 9383)**

Actions: *1) **Approved** and **Authorized** the Recordation of the Final Map; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; And 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.*

4. **AMENDMENT TO CONTRACT WITH CAROLLO ENGINEERS FOR**

PREPARATION OF WATER, SEWER AND STORM DRAIN MASTER PLANS

Action: 1) **Appropriated** \$15,150 from Unappropriated Water Fund (650) Balance and \$12,440 from Unappropriated Sewer Fund (640) Balance for These Projects; and 2) **Authorized** a \$27,590 Increase to the Carollo Engineers Contract for the Water and Sewer Master Plan.

5. **AMENDMENT TO APPROPRIATION FOR SUPPLEMENTAL IMPROVEMENT AGREEMENT WITH MORGAN HILL DEVELOPMENT PARTNERS, L.P. - DIGITAL DRIVE**

Action: **Appropriated** Additional \$10,063 from the Current Year Unappropriated Traffic Impact Fee Fund for this Reimbursement.

6. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEMS (RDCS) 2002, QUARTERLY REPORT NO. 1**

Actions: **Accepted** Report by Minute Action.

7. **SPECIAL CITY COUNCIL MEETING MINUTES FOR FEBRUARY 27, 2002**

Action: **Approved** the Minutes as Written.

City Council & Redevelopment Agency Action

Action: On a motion by Mayor Pro Tempore/Agency Member Carr and seconded by Council/Agency Member Sellers, the City Council/Redevelopment Agency, on a 4-0 vote with Council/Agency Member Tate absent, **Approved** consent calendar items 8-9 as follows:

8. **JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR FEBRUARY 20, 2002**

Action: **Approved** the Minutes as Written.

9. **JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR FEBRUARY 20, 2002**

Action: **Approved** the Minutes as Written.

City Council Action

PUBLIC HEARINGS:

10. **SOLID WASTE MANAGEMENT RATE ADJUSTMENT - Resolution No. 5552**

Assistant to the City Manager Eulo presented the staff report.

Mayor Kennedy indicated that the San Jose Mercury newspaper reported on cities that have met state

mandated requirements, noting that the City of Morgan Hill has met the state mandated requirements and was not mentioned in the news article.

Mr. Eulo indicated that the news article was based on a press release that the Wastewater Board sent out as it recently approved the year 2000 annual reports for those jurisdictions. Morgan Hill's status would be reported in a couple of months.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** Resolution No. 5552, approving the Refuse Rate Adjustment.*

11. PREZONE APPLICATION ZONING AMENDMENT, ZA-97-08: HILL-GERA - Ordinance No. 1550, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** the Mitigated Negative Declaration.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1550 New Series, Approving the Zoning Amendment.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1550, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 19.5 ACRES, LOCATED ON THE WEST SIDE OF HILL ROAD, ON THE NORTH AND SOUTH SIDE OF JEAN COURT FROM COUNTY A-20 TO RESIDENTIAL ESTATE 40,000/RESIDENTIAL PLANNED DEVELOPMENT, APPLICATION ZA-97-08: (APN's 728-08-014 & 015, 728-07-47, 48, 50 & 51) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers; NOES: None; ABSTAIN: None; ABSENT: Tate.*

12. DEVELOPMENT AGREEMENT AMENDMENT, DAA-99-04; EAST DUNNE - MORGAN MEADOWS - *Ordinance No. 1551, New Series*

Council Member Chang recused herself from this item as she resides behind this project.

Director of Community Development Bischoff presented the staff report. He indicated that the City reviews all current residential projects to see if their construction is consistent with the development schedule. Staff has identified, in the most recent Quarterly Report, that there are a number of projects that are behind schedule. He indicated that there is a downturn in the economy and that homes are not selling as quickly as they use to. He stated that the City Council would be seeing the other projects come before it and request similar actions in the next month or two. He said that the City saw this same slow down in the sale of homes in the early 1990s where a number of projects were extended for a period of time.

Council Member Sellers indicated that he has no problem proceeding with the action requested this evening as regulations are in place so that developers do not take a long time to complete their projects. He wanted to figure out a way to institutionalize this process so that the City is not hearing requests repeatedly.

Mr. Bischoff indicated that it is also the provision that allows for the exception to loss of building allocations as contained within the Measure P initiative. He informed the City Council that the language, process, and the findings are laid out in the initiative and that the City does not have latitude with this regard.

Mayor Kennedy opened the public hearing.

Bruce Myers, Pacific Union Homes, informed the City Council that he was present to represent agenda items 12, 13 and 14, noting that they are all interrelated. He stated his concurrence with the Planning Commission and staff recommendation, and that he was present to address all three items.

City Attorney Leichter indicated that the three items are being discussed separately due to conflict of interest purposes, noting that Council Member Chang has a conflict with item 12 and that Mayor Kennedy resides close enough to have a conflict with items 13 and 14. She stated that these are separate and distinct legal actions which can be considered separately and that they are not interdependent or interrelated in any respect with each other. She recommended that the Council address its comments to each item separately.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Sellers, the City Council, on a 3-0-1 vote with Council Member Chang abstaining and Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1551, New Series, the Development Agreement Amendment (DAA).*

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1551, New Series, by title only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 1472, NEW SERIES, TO ALLOW FOR A ONE YEAR EXCEPTION TO LOSS OF BUILDING ALLOTMENT FOR FIVE FY 2001-02 BUILDING ALLOTMENTS FOR MEASURE P PROJECT MP-98-24: EAST DUNNE - O'CONNELL (APNs 817-74-005 & -006) by the following roll call vote: AYES: Carr, Kennedy, Sellers; NOES: None; ABSTAIN: Chang; ABSENT: Tate.*

Council Member Chang resumed her seat on the dais.

13. ZONING AMENDMENT APPLICATION, ZAA-00-11: EAST DUNNE - TROVARE - Ordinance No. 1552, New Series

Mayor Kennedy recused himself from items 13 and 14 as he resides within 500 feet from these projects.

Director of Community Development Bischoff presented the staff report.

Mayor Pro Tempore Carr opened the public hearing.

Council Member Sellers noted that the Planning Commission minutes reflect that one of the reasons for the requested action was to reduce the size and cost for the individual homes. He said that the Planning Commission record states that Mr. Myer is looking at the costs of the homes at a price range of \$1 to 1.2 million. Now, the home prices are being proposed at \$700,000-\$800,000. He wanted to know if the market would respond significantly to this price range?

Mr. Myers indicated that Pacific Union Homes was not the original developer of this property. He said that due to the project's purchase, he has a higher land basis versus having a lower cost by buying the property from the underlying land owner. He said that there are a lot of home buyers looking to buy a house in this price range or are able to buy a house within this price range who cannot afford a larger home. He indicated that at time of purchasing this project, a market study was conducted which indicated that the market could support homes up to the \$1,275,000 price, but that is not the case today.

Council Member Sellers stated that it did not appear to him that the \$700,000-\$800,000 price range to be the lower range, and yet, it is surprising to see this type of activity and interest.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 3-0-1 vote with Mayor Kennedy abstaining and Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1552, New*

Series, of the Residential Planned Development (RPD).

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1552, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 1502, NEW SERIES, TO ALLOW FOR AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN FOR A 58-UNIT SINGLE-FAMILY PROJECT ON A 20-ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST DUNNE AVENUE, ADJACENT TO THE EAST SIDE OF THE CHURCH LOCATED AT 1790 EAST DUNNE AVENUE. (APN 817-19-009 & -049) by the following roll call vote: AYES: Carr, Chang, Sellers; NOES: None; ABSTAIN: Kennedy; ABSENT: Tate.*

14. DEVELOPMENT AGREEMENT AMENDMENTS, DAA-00-07: EAST DUNNE - TROVARE AND DAA-01-01: EAST DUNNE - TROVARE (PHASE III) - Ordinance No. 1555, New Series and Resolution No. 5559

Director of Community Development Bischoff presented the staff report. He indicated that staff supports the Planning Commission recommended action of extending the current fiscal year allotment for one year and not extending the allotment for the next two subsequent fiscal years out another year. The Planning Commission indicated that when the project proponent returns in a year for a year extension for the two subsequent fiscal year allocations, and if the economic situation is still the same, it would consider the request at that time. In response to Mayor Pro Tempore Carr's question, he indicated that staff recommended that all years be continued (applicant's request) but that the Planning Commission only recommended approval of the first year allocation.

Mayor Pro Tempore Carr opened the public hearing.

Bruce Myer indicated that he was trying to come up with an overall business plan to be presented to his financial partner, a large institutional investor backed by pension fund money. He stated that the business plan is targeting the current market conditions. He stated the site plan was changed in order to concentrate on the smaller/lower priced homes in order to generate home sales. He also reduced the home prices 15% across the board and agreed to offer additional sales incentives as an inducement to get individuals to purchase the homes. He stated that the driving force for this project is that although the project has been opened for sale since March of last year, he has only generated 3 sales to date at substantial discounts of 18% to 28%. He indicated that there are some homes that are under construction that have not been sold, and that his financial partner is hesitant to start additional construction and spend additional funds only to be faced with an additional standing inventory of homes. He requested that the City Council approve the extension of the building time line in order to avoid the loss of building allocations and allow the project to proceed with a realistic build out schedule. He stated that the way the Planning Commission has scheduled the allotments, it requires the construction of 39 units next year. He indicated that the construction of homes would be completed in April and do not have buyers for these units. If the homes do not sell, he would start

construction in the future once the models are ready to be opened. If additional home sales occur, he indicated that more production homes would occur. He stated that construction of new homes is proposed at a conservative pace, with approximately two homes being built per month.

Mayor Pro Tempore Carr stated that he understood that the Planning Commission would like to see the project's progress and request that the applicant return for additional delays. In doing so, the Planning Commission has allocated 39 allocations for next year. He felt that 39 units appear to be a lot to construct next year. He inquired whether extensions for two phases would be something that his financial partners would be willing to accept?

Mr. Myer responded that his financial partners would have to accept whatever position the City takes. He said that he would have to look at the business plan to see how Mayor Pro Tempore Carr's scenario would work out with the time line he has created, stating that he has only reviewed the Planning Commission's scenario, indicating that this scenario would not work. He stated that he would appreciate whatever help the City Council would be willing to give.

Council Member Sellers inquired whether the Planning Commission's recommendation would be detrimental or whether it would merely require the project proponent to return for an extension (a large economic problem or is it an issue of having the project up in the air next year)?

Mr. Myer responded that the business plan with his financial partner cannot be approved as written as it would not meet today's economic situation. This would amount in another procedural step for him and the City and that it was not an economic burden as there are not a lot of dollars involved in making another application for an extension of time.

Council Member Chang requested that staff explain the normal procedure for the extension of Measure P allocations.

Mr. Bischoff stated that the normal procedure would be to return with the second year's allotment if the City Council can substantiate that the circumstances are such that further exception to loss of allocation could be granted at that time. He explained that the Planning Commission's position on this issue was that in the not too distant past, there was a booming market with a lot of units being built. Should the City return to this, there may not be a need for an exception to the loss of allocation for the FY 2002-03 allocations.

No further comments being offered, the public hearing was closed.

Council Members Chang and Sellers stated their concurrence with the Planning Commission's recommendation.

Mayor Pro Tempore Carr expressed concern that the developer would have to perform a business plan and financing agreement for each year of the project instead of conducting one overall business and financial plan for the project. He stated that he would hate to tie the hands of someone so tight

that they lose their allotment and the City would lose a couple of years worth of allotments. He stated his support of extending the second year's allotment in order to provide the developer some leeway in their business model and in their financial options.

Council Member Chang disagreed with the applicant's comment as she hears that the market is rebounding, with the sale of homes increasing by 20%+ in Santa Clara County and the Morgan Hill area. She recommended that the Council adhere to the normal procedures, extending allotments at the appropriate time.

Mayor Pro Tempore Carr indicated that staff's original recommendation to the Planning Commission was to support the applicant's request, noting that staff has indicated that the applicant was well within the guidelines of Measure P. He felt that it was within the City's guideline to be able to grant the additional request.

Council Member Chang recollected that the Council approved extensions one phase at a time.

Council Member Sellers felt that it was important that the City Council adhere to the process, indicating that he too has faith in the economy. He felt that the changes in the size of the units would improve the sales of the homes as the costs would now be considered as reasonable. He stated that he would not have a problem with the applicant returning with a request for extension for phases II and III if the applicant deems it to be an appropriate request. To approve the extension for phases II and III at this time would be opening the City Council to other similar requests down the road.

Mayor Pro Tempore Carr stated that he would support the motion because he does not want to delay the project even more, noting that he would like to give the applicant the additional year grace period.

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 3-0-1 vote with Mayor Kennedy abstaining and Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1555, New Series, Approving A One Year ELBA for 19 Phase I Units.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1555, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 1503, NEW SERIES, TO ALLOW FOR A ONE-YEAR EXCEPTION TO LOSS OF BUILDING ALLOTMENT FOR NINETEEN FY 2001-2002 BUILDING ALLOTMENTS FOR MEASURE P PROJECT, MP-99-16: EAST DUNNE-O'CONNELL (TROVARE) (APN 817-19-009 & 049) by the following roll call vote: AYES: Carr, Chang, Sellers; NOES: None; ABSTAIN: Kennedy; ABSENT: Tate.*

Action: _____ *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 3-0-1 vote with Mayor Kennedy abstaining and Council Member Tate absent, **Adopted** Resolution No. 5559, Denying Development Agreement Amendment Request for a One Year ELBA for 14 Phases II and III units.*

Mayor Kennedy resumed his seat on the dais.

15. ZONING AMENDMENT, ZA-01-24: CITY OF MORGAN HILL - ZONING TEXT AMENDMENT - Ordinance No. 1554, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: _____ *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** the Mitigated Negative Declaration.*

Action: _____ *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1554, New Series, Approving the Zoning Amendment.*

Action: _____ *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1554, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO TITLE 18, ZONING, OF THE MUNICIPAL CODE TO ADD NEW TEXT REGARDING MAXIMUM FRONT YARD FENCE HEIGHT REQUIREMENTS IN OS, RE100,000, RE40,000, AND RE10 ZONING DISTRICTS by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers; NOES: None; ABSTAIN: None; ABSENT: Tate.*

16. URBAN SERVICE AREA APPLICATION, USA-01-02, GENERAL PLAN AMENDMENT, GPA-01-04; ZONING AMENDMENT, ZA-01-09; AND ANNEXATION ANX-01-03: HALE AVENUE - DIOCESE OF SAN JOSE - Resolution No. 5555, Resolution No. 5556, Resolution No. 5557, Ordinance No. 1553, and Resolution No. 5558

Planning Manager Rowe presented the staff report. He indicated that a revised Resolution No. 5555 has been distributed this evening that includes new text under Section 2. He said that the EIR identified that all environmental impacts, including the traffic impacts, can be fully mitigated. He said that there were two impacts that were deemed to be significant and unavoidable, noting that one

relates to the loss of burrowing owl habitat. He indicated that staff incorporated a requirement that this impact could be mitigated to a less than significant level through compliance with a comprehensive burrowing owl mitigation plan which is currently being prepared in consultation with the State Department of Fish and Game and other interested parties. If adopted by the City Council, the impact would be reduced to a less than significant level. He indicated that there are also findings under Section 3 of the resolution dealing with overriding considerations with respect to the loss of farm land. He said that findings have been incorporated in Section 3. He said that in response to comments on the draft EIR, staff conducted supplemental traffic counts at the request of Caltrans and completed a revised traffic model. He stated that the updated information shows that there would not be a need to provide the improvements to the Monterey and Main intersection. Since these improvements are not required, he stated that it was not necessary to make the overriding consideration as the Planning Commission was not recommending that the intersection be widened nor that downtown street improvements be removed. Therefore, staff recommends striking from the resolution the necessity to make findings of overriding consideration. He also indicated that staff is recommending a supplement to the final EIR which deals with the burrowing owl situation (revision to paragraph 5, page 37 of the draft EIR).

Mayor Kennedy opened the public hearing.

Paul Button, project architect, presented the City Council with a computer simulation of the design for the proposed Catholic high school. He informed the City Council that 13 sites were evaluated by the Catholic Diocese prior to arriving to this site selection. He said that it is proposed to develop Madrone Parkway, bisecting the 30-acre site. A two-story Mission style design is proposed with athletic fields. He indicated that Monseigneur Mitchell was also in attendance to answer any questions that the City Council may have. He requested Council support of the actions before it.

Council Member Sellers inquired as to the status of the project as he has heard that the project may or may not move forward.

Monseigneur Mitchell stated that when the project commenced two years ago, the economy was robust. He said that the project ran into two issues, indicating that funding became weak and that the immediate time line proposed has been put off. He stated that the Diocese would need to build a constituency for a 1,200 student school. He said that owning the real estate would provide a solid block on fundraising capabilities for the project. He indicated that the time line would depend on the ability to raise substantial funds. He stated that it has been found that private high schools cost the same to construct as public high schools, but that private high schools do not have the same bonding authority.

Mayor Pro Tempore Carr asked if there was a time line for this project.

Monseigneur Mitchell responded that after the land entitlements are put into place, it would take 3 to 4 years to get the rest of the details in place and begin construction of the project. He stated that funding is the critical issue as it would cost approximately \$85 million to construct the high school,

noting that this would be a substantial amount of money to be raised in the private sector. He stated that the Diocese's sights may need to change based on what occurs at the use permit and site review process. He stated that he hopes to complete the land acquisition by August 8, 2002.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Carr noted that two high schools are proposed in close proximity that would have traffic impacts examined. He inquired how the City could help facilitate the mitigations that need to occur so that they can be completed together? He said that with the public high school there is a traffic mitigation to build a sidewalk along Monterey Road from Cochrane to Burnett Avenue. It was his belief that there was a sidewalk or bike lane mitigation in this EIR along Hale Road. He inquired if both mitigations were necessary? If not, he inquired how the City could coordinate so that it can provide for the right number of mitigations to be able to allow pedestrians and bicycle access to both schools and not be gouging both entities?

Planning Manager Rowe stated that if both high schools were moving forward within the same time line, it would be easy to look at the respective projects and mitigations to try and coordinate them. He said that it would be more than likely that the public high school would be built first. He stated that this project would address any of the traffic mitigations that were not completed as part of the public high school.

Mayor Pro Tempore Carr stated that the School District is attempting to complete the public high school by the 2004 school year, a year to two ahead of the Catholic high school. He asked how the City looks outside the normal process of environmental impact reports and mitigations for developments that are similar? He inquired how the City can accommodate the needs and yet ensure that the mitigation measures are met? He asked if the costs could be split between the Catholic high school and the public high school?

Planning Manager Rowe responded that a development agreement with the Catholic high school can stipulate sharing of costs. He indicated that formal project approvals would be needed and therefore opportunities to address these concerns.

City Manager Tewes recommended that the Council direct staff to try to work with both project proponents to see if costs can be shared. He noted that the School District adopts its own environmental documents and conducts their own review while the Catholic high school's environmental review would be conducted by the City. He said that staff would try to facilitate integration of the two projects as best as possible.

City Attorney Leichter indicated that amendments were received to the Resolution certifying the final EIR. She requested that the Council include, in the motion, that she be allowed to make minor revisions to the Resolution adopting the EIR consistent with the record of this evening, should the Council approve said resolution.

- Action:** *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** Resolution No. 5555, Certifying the EIR, with the recommended revisions and supplements and **authorizing** the City Attorney to make such minor revisions as to allow the Resolution to comply with Council discussions.*
- Action:** *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** Resolution No. 5556, approving the General Plan Amendment.*
- Action:** *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** Resolution No. 5557, approving an amendment to the Urban Service Area Boundary.*
- Action:** *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 4-0 vote with Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1553, New Series, rezoning the property.*
- Action:** *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council **Introduced** on First Reading Ordinance No. 1553, New Series, by title only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 30 ACRES, FROM COUNTY A-20 TO PUBLIC FACILITY, APPLICATION ZA-01-09: HALE AVENUE - CATHOLIC HIGH SCHOOL (APN 764-09-012) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers; NOES: None; ABSTAIN: None; ABSENT: Tate.*
- Action:** *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 4-0 vote with Council Member Tate absent, **Adopted** Resolution No. 5558, Approving the Annexation.*

City Council & Redevelopment Agency Action

PUBLIC HEARINGS:

17. ADDITIONAL LOAN REQUEST - OLD MORGAN HILL ELEMENTARY SCHOOL BUILDING RELOCATION/REHABILITATION (LLAGAS VALLEY INVESTORS) - Resolution No. 5554 and Resolution No. MHRA-240

Business Assistance and Housing Manager Maskell presented the staff report and indicated that the revised resolutions reflect the correct loan terms.

Mayor/Chairman Kennedy opened the public hearing.

Gloria Pariseau, representing Llagas Valley Investors, shared photos with the City Council relating to the progress and the current status of the project. She indicated that other members of the project team were present to answer questions which the City Council may have. In response to Mayor Pro Tempore/Agency Member Carr's question, she indicated that this would be a short term loan waiting for permanent financing with interest.

James Weldon, parent of a 7-year old boy in Morgan Hill, expressed grave concerns about extending a loan to the current partnership. He recommended that the City Council ask for a few more facts before approving the loan. He did not know if the partnership was guaranteeing the loan. He recommended that the Council look at the tenant that would be taking over the school to determine whether or not they would be able to secure the loan. He asked if the tenant was a viable one and whether they have the standing and power in the community to continue to attract the constituency needed to survive as this will drive the permanent financing? He stated that he has initiated a law suit against the tenant and that he does not know if this would impact the permanent financing. He recommended that these questions be answered before the City enters into a bridge loan as he was concerned with the financial viability of the project.

Gary Walton, Llagas Valley Investors, stated that all loan agreements are with Llagas Valley Investors and not with Carden Academy. He indicated that he previously submitted his financial statements to the City. He said that regardless of whether or not Carden Academy is a tenant, he felt that the partnership has enough financial ability to secure the financing and to pay the loan off, if necessary.

No further comments being offered, the public hearing was closed.

Council/Agency Member Sellers indicated that he recently walked through the project and that it was exciting to see historical preservation taking place and coming together. He indicated that he had the same questions asked by the public this evening as to whether the loan would be secured regardless of the tenant in order to protect the City's interest. He noted that this would be a short term financing situation, noting that Llagas Valley Investors would be securing their own private financing regardless of the ultimate tenancy and that they would be able to repay the loan in six months.

Council Member/Vice-chairwoman Chang inquired whether the loan would be secured by the property? Ms. Maskell indicated that a note and a deed of trust would be required that would secure the loan.

City Council

Action: *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council, on a 4-0 vote with Council Member Tate absent, **Approved** Resolution No. 5554, Approving the Loan of Funds to Llagas Valley Investors for Ojo De Agua Community Development Project, as amended.*

Redevelopment Agency

Action: _____ *On a motion by Agency Member Sellers and seconded by Vice-chairman Chang, the Agency Commission, on a 4-0 vote with Agency Member Tate absent, **Approved** Resolution No. MHRA-240, Approving the Loan of Funds to Llagas Valley Investors for Ojo De Agua Community Development Project, as amended.*

Action: _____ *On a motion by Agency Member Sellers and seconded by Vice-chairwoman Chang, the Agency Commission, on a 4-0 vote with Agency Member Tate absent, **Appropriated** \$400,000 from Fund 317.*

City Council Action

OTHER BUSINESS

18. ENVIRONMENTAL PERFORMANCE OF NEW PUBLIC FACILITIES

Assistant to the City Manager Eulo presented the staff report and requested Council direction on how it would like staff to proceed in designing future public facilities.

Mayor Kennedy inquired how staff proposes to use environmental performance standards for the indoor recreation center? Mr. Eulo said that should the Council direct staff to research what level of green standards it would like implemented, staff would instruct architects to return with a project with the level of green standards; maximizing the greenness within the category while minimizing costs.

City Manager Tewes clarified that the architect would also look at the fixed dollar allocation that the City Council has provided. Given the City Council's level of environmental performance, the architect would have to design a building that met the budget at that level of performance.

Mayor Kennedy felt that the Carden Elementary School presented this evening would be a very green building because there is a use of a recycled structure, has windows that can be opened, and does not contain a lot of expensive utilities.

Mr. Eulo stated that the elementary school would score highly in some areas because of the items identified by Mayor Kennedy.

Mayor Pro Tempore Carr stated that it was his hope that the City would try to achieve a platinum green level in all City projects within budget. He said that even if the City was to apply these standards and capital costs would increase by 10% in some cases. If the city was able to show and quantify how the operational costs would decline by possibly this same amount or more, it would be a positive trade off. He stated his support of the highest level that the City can achieve. He recommended that this be instituted in Measure P as a model for energy reduction. He recommended that the Measure P Update Task Force look at this model and how this can be brought into the

process.

Council Member Sellers supported this effort but expressed concern with the budget. He recommended that the City make a requirement that the buildings that the City is developing be certified. He felt that the City does everything that it can to achieve a higher level, and that the design development process takes a look at costs and operational cost savings down the line. He further recommended that staff perform an analysis, on a case by case basis, on City projects. He supported referring this item to the Measure P Update Task Force.

Mayor Kennedy indicated that in good architecture and design, a life cycle cost analysis is performed that takes into account both the initial cost of construction and the annual operating cost. For a 30-year project, paying the additional 10%-20% may be recovered many times over the life of the facility. He stated his support of implementing environmental performances and looking at life cycle costs. He inquired where the additional construction costs came from?

Mr. Eulo responded that the construction cost estimates came from Chris Noll based on his experience and not from the Green Building Institute.

Mayor Kennedy challenged Mr. Noll's costs. He acknowledged that the city does not want to exceed the budget for projects but that the City should strive for a platinum rating, being mindful that the City has a budget to live with. He recommended that staff add as part of the architectural design the performance of a life cycle analysis.

City Manager Tewes noted that the City Council established a requirement that a business plan be prepared for each public building that identifies the long term operating cost and potential revenues. He said that it appears that the City Council wants to set the goal/bar high. He recommended that staff ask architects to return with an assessment of how green the building can be designed within budget and identify ways in which it can be made more green and what the trade off would be in terms of size and/or functionality.

Mayor Kennedy recommended that the City try to achieve gold but strive for platinum.

Mayor Pro Tempore Carr stated that he would like to achieve platinum for each city project but that the City needs to look at each project on a case by case basis to see what this would mean.

Council Member Sellers recommended that at some phase of development, the City's project architect return to the City Council and identify what it would take to achieve a level of greenness, including additional costs necessary to achieve a certain level of greenness. He wanted to be able to allow feedback instead of locking into a requirement that would result in a project cost overrun.

Mr. Eulo said that instead of looking at cost overruns that the building could be made smaller or eliminate a particular aspect of the project. He said that now that staff has direction from the Council, staff can include the environmental performance information in all future Request for

Proposals (RFP). He said that Noll and Tam were mindful of these issues and are currently working on two city projects.

Action: *The City Council **Provided** the above stated direction to Staff.*

19. NEW CITY LOGO IMPLEMENTATION PLAN

Assistant to the City Manager Eulo presented the staff report.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *It was the consensus of the City Council to **Direct** Staff to Proceed With Logo Implementation (Council Member Tate absent).*

City Council & Redevelopment Agency Action

20. WORK PLAN FOR A HOUSING STRATEGY

Director of Business Assistance and Housing Services Toy presented the staff report.

Council/Agency Member Carr stated that he was pleased to see a comprehensive housing strategy to go along with the City's 20% Set Aside. He inquired if it is proposed to increase housing opportunities for each project identified by staff?

Mr. Toy stated that staff leverages 3-4 times what the Agency's investment is. He said that because of the levels of what is being targeted, in terms of affordable housing, the developer will seek certain funding sources, indicating that there are larger gaps for these types of projects. There would be an increase in the number of available housing units in new construction.

Mayor Pro Tempore/Agency Member Carr recommended that mixed use be kept in mind, specifically in blighted areas and along the Monterey corridor, in terms of housing and economic opportunities. If there are other areas in town that can be changed from an existing use to a housing project or mixed use, they should be priorities for the City.

Council/Agency Member Sellers stated that in looking through the project list, they are necessary projects and are key projects that should be undertaken. He was excited about most of the projects with the exception of the Watsonville Road project because it would be developed as new housing. The remainder of the projects would result in either improving existing housing or improving/reducing housing numbers. He asked if the City is looking at reducing the actual units in the identified projects? He inquired whether there would be other opportunities to add housing (e.g., 50 West Dunne Avenue). He wanted to make sure that housing funds are being leveraged and that the City looks at new opportunities versus keeping the existing housing stock from getting worse.

Mr. Toy said that staff would try to land bank adjacent properties to create a larger project whenever possible. Also, staff would try to identify other opportunities where the City would want to put more money into new construction. He said that the updated Downtown Plan may create some opportunities in terms of transit oriented development, including the addition of affordable housing units.

Mayor/Chairman Kennedy inquired if it made sense to put money toward the 50 West Dunne project if it is the City's goal to rehabilitate the entire shopping center?

Mr. Toy said that as part of the reuse strategy, staff would look to see if there is a role for this type of residential project within the redevelopment of the project. On an interim basis, he said that there may be some short term improvements that can be done to upgrade the property so that it is made more attractive. He indicated that this type of use at this location may not fit into the ultimate reuse of the property. However, he indicated that a reuse strategy and plan would take several years to implement. He said that staff would look at the relocation of the housing unit to another location as one of the strategies and the financial feasibility of doing so.

Mayor Pro Tempore/Agency Member Carr stated that he did not see the existing Dunne Avenue apartments as a long lasting housing stock. If the City is increasing housing opportunities in other places, the City has the ability to provide housing for the residents once it is decided what will be done with the building. He referred to the Housing Assistance program figures and requested that staff explain this program.

Mr. Toy said that staff plugged in numbers in order to provide housing assistance such as a silent second program. He indicated that staff made estimates as to the numbers that would be feasible for this program. He indicated that some are potential numbers and some are "plug" numbers. He said that as part of the housing strategy staff would look at how the numbers and money would be made available, indicating that the numbers would be updated over the life of the plan.

Mayor/Chairman Kennedy inquired if the City Council would like to include a teacher assistance program?

City Manager/Executive Director Tewes indicated that these are not adopted Council five year plans. He said that staff wanted to identify not only the 20% set aside but the other sources that the City Council controls through the Housing Mitigation Fund and CDBG. This results in approximately \$40 million being made available to assist housing over a period of time. He stated that the proposed strategy would be comprehensive as it includes all resources, not just the 20% set aside. He said that it was staff's belief that the Watsonville Road project would be a good demonstration project but that the City needs to move forward if a Measure P allocation is to be achieved that makes sense.

Mayor Pro Tempore/Agency Member Carr asked why the Watsonville project is no longer being considered for a fire station as staff presented a creative idea for the site?

City Manager/Executive Director Tewes responded that the recently completed Fire Master Plan indicates that Watsonville Road would not be an appropriate site for a fire station and that the alternate sites identified were better sites. He indicated that the strategy for the south end of town should include the fire station located along Monterey Road (CDF fire station).

Mayor Pro Tempore/Agency Member Carr asked if there was a guesstimate of the number of units that could be developed on the Watsonville Road site? Mr. Toy responded that approximately 6-8 units could be developed, depending on the site layout, noting that a residential project would have to compete under Measure P. He said that depending on the income levels being targeted, a project might have to compete under the competitive side as opposed to the affordable set aside.

Council Member/Vice-chairwoman Chang inquired whether the units on Dunne Avenue would allow units to be transferred to another project site should the apartment units be demolished?

Mr. Toy informed the City Council that housing units cannot be transferred off site under Measure P. Therefore, the City would not be able to transfer the apartment units as a credit to another parcel.

Mayor/Chairman Kennedy inquired about the current affordable housing stock and whether they were reverting back to the private market after a period of time or were they being retained as below market rate (BMR) or affordable status?

Mr. Toy responded that most of the rental projects would remain affordable for 55 years. The ownership units would be retained as affordable for 30- years as long as the individual resides in the home. If a homeowner re-sells the house prior to the 30-years, it would be retained for an additional 30 years by the next buyer. He indicated that individuals retain BMR units approximately 7-8 years, but that most of the units are staying within the program due to demand. He indicated that under the BMR program, the City has lost some affordable units because the restrictions were for 12-15 years.

Mayor/Chairman Kennedy requested that staff provide the Council with a report as to the turn over of BMR units. He felt that it was important that the City keeps its BMR and affordable housing projects in this category and not lose them through turn overs.

Mayor Pro Tempore/Agency Member Carr inquired if there was a demand for owner units versus rental units for first or second year teachers, police officers, or public service workers in the City to be used as an attraction tool in recruiting employees to this area?

Mr. Toy said that it is staff's hope to look at the Housing Element to see what is needed. Based on the need, the information would be incorporated into this proposal where developers would be able to address the various needs of the community through these projects, evaluating proposals as they are submitted.

City Manager/Executive Director Tewes said that it was staff's intent to issue an RFQ or RFP to developers to talk about this site and it would talk about home ownership opportunities on this site.

If the Council has a different intent for the Watsonville site, he requested that the Council identify them at this time. He recommended that the Council narrow its objectives for the site in order to get quick and responsive proposals to submit for Measure P.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council/Agency Member Sellers and seconded by Council Member/Vice-chairwoman Chang, the City Council/Agency Commission, on a 4-0 vote with Council/Agency Member Tate absent, 1) **Accepted** Work Plan; 2) **Directed** Staff to Implement Work Plan; and 3) **Directed** Staff to Implement the RFQ/RFP Process for the Development of the Watsonville Road Property, Including the Selection Of A Developer and Negotiation of An Agreement.*

Council Member/Vice-chairman Chang stated that she was looking at the categories, noting that most of the housing strategies are for apartments and cottages. She felt that the Watsonville site would be appropriate and proportional if developed as single family units.

City Council Action

SECOND READING OF ORDINANCE

21. ADOPT ORDINANCE NO. 1548 NEW SERIES

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Adopted** Ordinance No. 1548, New Series, as follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Zoning Amendment to Establish a Precise Development Plan for a 54-Unit R-1 (7,000)/RPD Single-family Residential Planned Development Located on the Northeast Corner of the Intersection of Sunnyside Avenue and Watsonville Road (APN 767-29-006), as amended, by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers; NOES: None; ABSTAIN: None; ABSENT: Tate.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

CLOSED SESSION (continued)

City Attorney/Agency Council Leichter announced that the City Council would be considering the 8 closed session items identified above.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 9:37 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 10:40 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that with regards to closed session number eight: the City Council voted, 3-0, with Council Members Chang and Tate absent, to authorize filing of an appeal of Sacramento Superior Court Case No. 01-71611, and filing of action in Superior Court to challenge "Authority to Construct" issued by the Bay Area Air Quality Management District. No reportable action was taken on the remainder closed session items.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:43 p.m.

MINUTES RECORDED AND PREPARED BY:

Moirra Malone, Office Assistant II

Irma Torrez, City Clerk/Agency Secretary